

BEFORE THE GOA HUMAN RIGHTS COMMISSION
PANAJI – GOA

Proceeding No.269/2018

Prakash Kundaikar,
Nagali, Taleigao-Goa.

..... Complainant

V/s

- 1) The Dean,
Goa Medical College,
Bambolim-Goa.
- 2) The Medical Superintendent,
Goa Medical College,
Bambolim-Goa.
- 3) Shri Vishant S. Nagvekar,
C-49, Govt. Quarters,
Altinho, Panaji-Goa.
- 4) Shri Avelino De Sa,
President,
Disability Rights Association of Goa,
Opp. Head Post office,
Panaji-Goa.

..... Respondents

INQUIRY REPORT/ORDER

(3rd August, 2021)

An email from the Complainant, Shri Prakash Kundaikar, was inwards in this Commission on 11/12/2018, in respect of the odd practice followed by the authorities incharge of issue of disability or other related certificate to persons with Disability, by demanding full body photograph.

2. By Order dated 12/12/2018, on perusing the complaint, dated 09/12/2018, the Commission called for the report from the Respondents No.1 & 2.

3. The Respondent No.1, the Dean, Goa Medical College, Bambolim,
.....2/-

filed their report dated 01/01/2019 along with the Note of Respondent No.2, i.e. Medical Superintendent, Goa Medical College, Bambolim, dated 13/12/2018 and with the letter of the Chairman of the Medical Board dated 18/12/2018.

4. Subsequently, on the application of Respondent No.3, Shri Vishant S. Nagvekar, received by email on 18/01/2019, he was allowed to intervene. So also Respondent No.4, Shri Avelino De Sa, President, Disability Rights Association of Goa, was added as Respondent No.4 on 07/03/2019, based on his application before this Commission.

5. At the stage of hearing, the Commission heard the Complainant and Respondent No.4 in person. The respondents No.1, 2 & 3 remained absent.

6. The Commission has gone through the complaint and the replies of the Respondents and the documents produced as well as the law on the subject.

7. The Commission finds that the complaint was filed as the authorities were demanding, from the persons with disabilities, full body photographs in 4x6" or 3x4", for issue of disability certificates.

8. The Complainant has prayed that only passport size photographs showing the face only, be accepted for protecting the dignity of the persons with disabilities.

9. From the replies of the Respondents, it is seen that the Medical Superintendent of Goa Medical College, Bambolim had issued Note dated 31/12/2018 directing all the concerned doctors in the Department of Orthopedic not to insist on full body photographs and to follow the new guidelines.

10. So also by letter dated 18/02/2018, the Chairman of the Medical Board of Goa Medical College had informed the Dean that no personnel has asked for or insisted for full body photograph for patients of disability.

11. The Complainant had filed a Rejoinder on 06/02/2019 stating that the Respondents are still compelling persons with disability to submit full body photographs to obtain railway concession certificate.

12. The Complainant has produced with his Rejoinder a copy of a disability certificate showing the full body photograph in use.

13. The Respondent No.3 has also produced a Disability Certificate dated 16/03/2017 issued to him having his full photo. This shows that full body photographs are taken which goes against the provisions of the Act, thereby violating the human rights of the persons with disability.

So also, the Respondent No.4 in his reply, had stated that there are many persons with disability in Goa, including him, who have been issued Disability Certificates, exposing their affected body parts, copies of which were annexed.

14. The Commission finds that under the ` The Rights of Persons with Disabilities Act, 2016, Section 58 contains the procedure regarding issuance of disability certificate. The full body photograph which was mandatory earlier stands replaced with " Two recent passport size photographs", as per Rule 17(2)(b) of the Rights of Persons with Disabilities Rules, 2017. These Rules were published in the Official Gazette dated 15th June, 2017, of the Central Government and extend to the whole of India, including Goa. A passport size photograph is a small photograph of a person's face, of the type used on passports, i.e. of size 2 x 2 inches or 51 mm x 51 mm.

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15. The Commission finds that the Rule 17(2)(b) of The Rights of Persons with Disabilities Rules, 2017 are not followed and non adherence of the same amounts to violation of human rights and privacy of the person/s thereof.

16. Hence, the Commission issues the recommendation as under :

"The Respondents No. 1 & 2 shall ensure that Disability Certificates/other necessary certificates of persons with disabilities, are issued, only by accepting passport size photographs, showing only the face of the Applicant and not the full body photograph, in accordance with the Rights of Persons with Disabilities Act, 2016 and the Rights of Persons with Disabilities Rules, 2017".

Date : 03/08/2021

Place : Panaji-Goa.

Sd/-
(Justice U.V. Bakre)
Chairperson

Goa Human Rights Commission

Sd/-
(Desmond D'Costa)
Member

Goa Human Rights Commission

Sd/-
(Pramod V. Kamat)
Member

Goa Human Rights Commission